



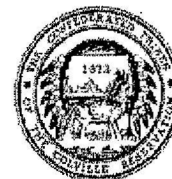
Colville Business Council

The Confederated Tribes of the Colville Reservation

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VIA FACSIMILE and EMAIL

January 19, 2011

The Honorable Lisa P. Jackson
Administrator, U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
Facsimile: (202) 501-1450

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COLVILLE TRIBES
EXECUTIVE SECRETARIAT

RE: Follow-up to 2010 Tribal Nations Conference

Dear Administrator Jackson:

Last month at the Tribal Nations Conference in Washington, DC, I again articulated to representatives within the Administration the concerns of the Confederated Tribes of the Colville Reservation regarding implementation of new federal policies impacting our nation's resources, our Indian lands and people. Specifically, I spoke again about cross-border pollution issues in the Columbia River caused by Teck Cominco Metals, Ltd ("Teck Cominco") that affect the Colville Tribes and the entire Columbia River basin. The Colville Tribes believes it is critical that the Environmental Protection Agency ("EPA") change course and become more aggressive in dealing with Teck Cominco on these issues, specifically in EPA's ongoing administration of the Remedial Investigation/Feasibility Study ("RI/FS") at the site.

The Colville Tribes has a long relationship with EPA going back to around 1980. We were the first Indian government in the nation to receive an EPA grant under the Section 208 Area-Wide Clean Water Act Planning and Implementation program. We have struggled since then to build our basic environmental programs and infrastructure. For over a decade the Colville Tribes has been facing the enormous challenge of dealing with decades of pollution in the Columbia River from Teck Cominco's lead-zinc smelter and the Zellstoff Celgar pulp mill just north of the border in Canada.

After the federal and state governments rebuffed the Tribes' requests to address these issues, the Colville Tribes petitioned EPA in 1999 under CERCLA to assess the Upper Columbia River-Lake Roosevelt. The initial assessment by EPA Region 10 found "widespread contamination" at the site. Teck Cominco was unwilling to concede that its Canadian smelter was subject to CERCLA or even the jurisdiction of the EPA. Ultimately, the EPA and Teck Cominco in 2006 entered into an agreement that provides for Teck Cominco to fund and conduct the RI/FS at the site. The RI/FS required in the agreement is similar, but not subject to, the RI/FS process provided for in CERCLA. Rather, it is essentially a private contract between Teck Cominco and EPA. The Colville Tribes is not a party to this agreement and has significant concerns with how

this work has been and is being carried out. Essentially, the prior Administration, by entering into this agreement, has allowed a polluter to investigate itself and procure studies on the impacts of its own pollution. EPA currently oversees Teck Cominco's performance under this agreement, and United States has significant trust resource obligations and interests at the site.

From the beginning, Teck Cominco's implementation of the RI/FS has regularly fallen short of providing EPA with acceptable written deliverables. Without the continued effort and intervention by the Colville Tribes and the other participating parties, these inadequate deliverables would likely have been incorporated into the RI/FS and would have weakened and compromised the entire process. To date there have been at least six disapprovals from EPA Region 10 to Teck Cominco regarding multiple deliverables. EPA appears to be managing the RI/FS with undue deference to Teck Cominco and with the aim of completing the process as soon as possible, rather than keeping the protection of federal and Tribal trust resources as its highest priority. EPA seems more concerned about Teck Cominco pulling out of the agreement—and Teck Cominco's funding for the agreement—rather than ensuring completion of an adequate RI/FS.

Despite the Colville Tribes' disappointment with how the RI/FS has been conducted, we stand behind the decision to assess and clean up a legacy of over 100 years of contamination by the Canadian mining industry. Our expectations remain high and the Colville Tribes continues to expend vast resources to address the protection of the Columbia River.

The Colville Tribes (and since 2004, the State of Washington) have been performing the heavy lifting involved in keeping this critical issue on the radar screens of appropriate federal agencies. The Colville Tribes and the State of Washington have also taken a leadership role in bringing litigation against Teck Cominco. The Colville Tribes and the State of Washington won the jurisdictional battle to see that this company can no longer hide behind the international boundary to avoid United States law. We appreciated the support of EPA Region 10 and EPA Headquarters in the referral to the U.S. Department of Justice for the United States to intervene in the Tribes' and the State's ongoing lawsuit. The Department of Justice, however, elected to not join the case. The Colville Tribes and the State of Washington continue to spend millions of precious dollars in preparation for the trial set for January 2012.

The Colville Tribes would like to see a shift in EPA's direction on the RI/FS, a recommitment to the Tribes and EPA's government to government relationship, and recognition that the Colville Tribes and the State of Washington are partners in the RI/FS. EPA must get aggressive and not tolerate Teck Cominco's consistently poor performance on its major deliverables under the Agreement, and should impose penalties and fees when appropriate.

We look forward to working with EPA to help effectuate this change. We stand ready to provide any information that you may require and eagerly await your written response to this letter.

Sincerely,



Michael O. Finley, Chairman
Colville Business Council

cc: Kimberly Teehee, Senior Policy Advisor for Native American Affairs
White House Domestic Policy Council
Hilary Tompkins, Solicitor, Department of the Interior
Dennis McCleeran, Administrator, EPA Region 10
Christine Gregoire, Governor, State of Washington
Ted Sturdevant, Washington Department of Ecology
Senator Patty Murray
Senator Maria Cantwell

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3 To Recipient's Name: John P. Jackson Phone: 504-434-2200

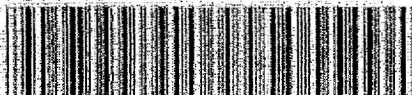
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